

515.63 Temporary Change in Duty Assignment

If an employee requests intermittent leave or a reduced work schedule, the Postal Service may assign the employee, with equivalent pay and benefits, temporarily to the duties of another position consistent with applicable collective bargaining agreements and regulations if such an assignment better accommodates the recurring periods of absence.

515.64 Fair Labor Standards Act Status

An employee exempt from the Fair Labor Standards Act (FLSA) normally may not take leave in less than 1-day increments. However, leave taken for an FMLA-covered reason on an intermittent basis or by temporarily establishing a reduced work schedule can be taken in less than 1-day increments without affecting the employee's FLSA-exempt status.

515.7 Return to Position

Employees whose absence is covered by the FMLA are normally entitled to return to the positions they held when the absence began, or to equivalent positions with equivalent pay, benefits, working conditions, and other terms of employment if they are able to perform the essential functions of the positions. Returning employees are not entitled to any right, benefit, or position to which they would not have been entitled had they not been absent, or to intangible, unmeasurable aspects of the job such as the perceived loss of potential for future promotional opportunities. If an employee was hired for a specific term or only to perform work on a discrete project, then there is no further reinstatement obligation under this section if the employment term or project is over and the employment would not have otherwise continued.

515.8 Benefits

All benefits accrue to employees during an FMLA absence pursuant to the applicable provision of the ELM.

515.9 Family Leave Poster

All postal facilities, including stations and branches, are required to conspicuously display WH Publication 1420, *Your Rights Under the Family and Medical Leave Act of 1993*. It must be posted, and remain posted, on bulletin boards where it can be seen readily by employees and applicants for employment.

516 Absences for Court-Related Service**516.1 General****516.11 Determining Nature of Court-Related Service**

Installation heads ascertain the exact nature of court service and determine if the employee (a) is entitled to paid court leave, (b) must take annual leave or LWOP, or (c) is to serve in an official duty status. If a summons to witness

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service is not specific or clear, the installation head contacts appropriate authorities to determine the party on whose behalf the witness service is to be rendered. When the exact nature of court service is determined, records are annotated accordingly. (See [Exhibit 516.11](#) for a summary of leave to be taken according to nature of service.)

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Exhibit 516.11

Absences for Court-Related Service

Nature of Service	Court Leave	Annual Leave or LWOP	Official Duty
I. Jury Service:			
(A) U.S. or D.C. court.	x	—	—
(B) State or local court.	x	—	—
II. Witness Service:			
(A) On behalf of U.S. or D.C. government.	—	—	x
(B) On behalf of state or local government:			
(1) In official capacity.	—	—	x
(2) Not in official capacity.	x	—	—
(C) On behalf of private party:			
(1) In official capacity.	—	—	x
(2) Not in official capacity:			
(a) Postal Service a party.	x	—	—
(b) Postal Service not a party.	—	x	—

516.12 Explanation of Terms

The following definitions apply for the purposes of 516.

- a. *Judicial proceedings* — any actions, suits, or other proceedings of a judicial nature but not including administrative proceedings such as National Labor Relations Board (NLRB) hearings and hearings conducted in accordance with 650, Nonbargaining Disciplinary, Grievance, and Appeal Procedures.
- b. *Summons* — an official request, invitation, or call, evidenced by an official writing from the court or authority responsible for the conduct of the judicial proceeding.

516.2 Court Leave**516.21 Definition**

Court leave is the authorized absence from work status (without loss of or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance rating) of an employee who is summoned in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve as a juror, as a witness in a nonofficial capacity on behalf of a state or local government, or as a witness in a nonofficial capacity on behalf of a private party in a judicial proceeding to which the Postal Service is a party or the real party in interest. The court or judicial proceeding may be located in the District of Columbia, a state, territory, or possession of the United States, including the Commonwealth of Puerto Rico, or the Trust Territory of the Pacific Islands.

516.22 **Eligibility**

Court leave is granted to full-time and part-time regular employees. Certain part-time flexible employees are granted court leave as provided and governed by applicable collective bargaining agreements. Other employees are ineligible for court leave and must use either annual leave or LWOP to cover the period of absence from postal duties for court service but may retain any fees or compensation received incident to such court service.

Court leave is granted only to eligible employees who would be in work status or on annual leave except for jury duty or service as a witness in a nonofficial capacity on behalf of a state or local government, or service as a witness in a nonofficial capacity on behalf of a private party in a judicial proceeding to which the Postal Service is a party or the real party in interest. An employee on LWOP, when called for such court service, although otherwise eligible for court leave, is not granted court leave but may retain any fees or compensation received incident to court service.

516.23 **Recording Court Leave**

The following provisions concern the recording of court leave:

- a. *Employees Other Than Rural Carriers.* PS Form 1224, *Court Duty Leave — Statement of Service*, is prepared at the time an employee is authorized court leave. Instructions for preparing PS Form 1224 appear in Handbook F-1, *Post Office Accounting Procedures*, 823; in Handbook F-21, *Time and Attendance*, 353.3; and in Handbook F-22, *PSDS Time and Attendance*, 353.3.
- b. *Rural Carriers.* When a rural carrier is on court leave, the postmaster records it as "Other" leave on PS Form 1314, *Regular Rural Carrier Time Certificate*, and describes the court service performed on the reverse side of the form. (See Handbook F-1, 445.5 for recording and reporting fees.)

516.3 **Conditions Affecting Court-Related Service**516.31 **Employee on Annual Leave**

If an eligible employee while on annual leave is summoned for court service that qualifies for court leave or official duty (see 516.11), the employee's annual leave is canceled and the employee is placed on court leave or official duty for the duration of such court service. Employees who are not entitled to court leave or official duty must use annual leave or LWOP for the period of absence from duty for such court service.

516.32 **Combination of Court Leave and Postal Duty**

The following provisions concern combinations of court service and postal duty:

- a. *Employees Who Report for Court Service and Are Excused Early.* If an employee reports for court service and is excused by the court for the balance of the day, or performs court service for only part of that day, the employee is entitled to full compensation for the day in question. An employee who would otherwise be in a work status is required to report

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to the postal installation for the balance of the postal tour of duty provided (1) an appreciable time of the tour is involved and (2) it is feasible to report to work and complete the tour. Combined paid court leave and postal duty may not exceed 8 hours.

- b. *Employees Who Serve a Full Day in Court.* Employees serving a full day in court service are not required to report to their postal duties.
- c. *Employees Excused From Court Service for an Extended Period.* Employees, including rural carriers, who are excused from court service for an entire day or days are not entitled to compensation for such days unless they actually perform service as postal employees.

No overtime is allowed for court service performed while an employee is on court leave or for a combination of postal work and such court service.

516.33 **Accommodation of Employees Called for Court Service**

The following provisions concern accommodation of employees called for court service:

- a. *Employee Options.* Employees who are eligible for court leave and who have a conflict with court duty and work schedules have the following options:
 - (1) (Work their postal tours of duty in addition to performing court service.
 - (2) (Have their work schedules changed temporarily to conform to the hours of court service. (Employees who do not choose this option may not have their work schedule changed and are expected to report for postal duty upon completion of their court service.)
- b. *Performance of Postal Tour of Duty in Addition to Court Service.* If employees work their full postal tours of duty in addition to performing court service, their court service is *not* charged to court leave as the court service is performed outside of their postal tours of duty. Accordingly, employees may retain any fees or payment received incident to such court service. If employees choose to work their full postal tours of duty in addition to performing court service, but are required to be in court beyond the starting time of their scheduled tours, they report for postal duty as soon as possible after completion of court service and work the remaining hours of their scheduled tours. The hours of court service that overlap the employees' scheduled tours of duty are charged to court leave and the employees remit to the Postal Service that portion of court fees received for the hours charged to court leave. The combined court leave and postal workhours may not exceed 8 hours.
- c. *Temporary Change in Schedule.* Employees who choose to have their work schedules changed temporarily to conform to court service hours submit PS Form 3189, *Request for Temporary Schedule Change for Personal Convenience*, as soon as possible, together with PS Form 3971, requesting such schedule change to the appropriate postal official at their installation (see Handbook F-21, *Time and Attendance*, 232.23). Such request states that the schedule change is for the

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employee's personal convenience and is agreed to by the local union. Employees who exercise this option receive full compensation for the period of court service including any applicable night differential for the revised schedule.

516.4 **Fees**516.41 **General**

Employees may retain any court allowance in the amount of \$25 or less per day on days court leave is authorized. Employees must remit to their supervisor amounts received in excess of \$25 per day. Employees who are eligible to receive such fees are not authorized to waive the fee.

516.42 **Court Service Outside of Regular Working Hours or Regular Working Days**

Employees who perform court service outside of their basic workweek (on scheduled days off) or outside of their scheduled tour of duty, for which no court leave is granted, may accept and retain the jury or witness fees or payment received incidental to such court service.

516.43 **Holidays**

Fees received for court service falling on a holiday within an employee's basic workweek may be retained by the employee provided the employee would have been excused from regular postal duties on the holiday.

516.44 **Annual Leave or LWOP**

Employees who are on annual leave and do not change, or are not eligible to change, the annual leave to court leave or who are on LWOP for court service may retain fees or payment received incidental to such service.

516.45 **Recording and Reporting of Fees**

Postmasters record and report fees in accordance with instructions in Handbook F-1, 793. Other installation heads forward collections of jury or witness fees to the disbursing officer, Eagan ASC. If court service is to be performed in a state court, the installation head determines the exact amount of compensation received from the state.

516.5 **Official Duty**516.51 **Definition**

An employee is in an *official duty status* (as distinguished from a leave status and without regard to any entitlement to court leave) if assigned by the Postal Service or summoned by proper authority to:

- a. Testify in a judicial proceeding or produce official postal records on behalf of the United States or the District of Columbia. (Such testimony may be in an official or nonofficial capacity.)

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- b. Testify in a judicial proceeding in an official capacity or produce official postal records on behalf of a party other than the United States or the District of Columbia.

Note: *Official duty* means that the testimony the witness provides concerns the witness's specialized knowledge of Postal Service facts, procedures, or methods gained by performing his or her job. For example, a postal supervisor would be in an official capacity if called to explain how the Postal Service processes a particular class of mail. A carrier would be in an official capacity if called to confirm a delivery he or she made. On the other hand, a carrier would not be in an official capacity as a witness to a car accident, even if a postal vehicle were involved, because observing car accidents is not part of a carrier's job.

516.52 **Compensation**

Employees who perform witness service in an official duty status are paid their regular salaries as Postal Service employees, including any applicable night differential and overtime pay. In addition, such employees collect the authorized fees and any allowances for travel and subsistence expenses and retain an amount equal to actual allowable expenses. All amounts collected over and above the amount of the employee's actual allowable expenses are remitted to the postal official in charge (see Handbook F-15, *Travel and Relocation*, 9-1.2).

516.6 **Witness Service in a Nonofficial Capacity on Behalf of a Private Party**

An employee who is summoned to testify in a nonofficial capacity (as a private individual) on behalf of a private party is *not* performing official duty. The employee's absence is charged to court leave if the testimony is given in a judicial proceeding to which the Postal Service is a party or the real party in interest. If the Postal Service is not a party or the real party in interest, the employee's absence is charged to annual leave or LWOP.

517 **Paid Military Leave**

517.1 **General**

517.11 **Postal Service Support**

The Postal Service supports employee service in the Reserve or National Guard, and no action is permitted to discourage either voluntary or involuntary participation. The Postal Service allows employees to be absent:

- a. To participate in drills or meetings scheduled by the National Guard or Reserve Units of the armed forces.
- b. To attend usual summer training periods.
- c. To perform any other active duty ordered by the National Guard and Reserve Units of the armed forces.

However, eligible employees are entitled to paid military leave only for such duty as and to the extent provided below.